



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of Ashar AZIZ

Serial No.: 09/818,424

Filed: March 26, 2001

For: SYMBOLIC DEFINITION OF A
A COMPUTER SYSTEM

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:
:
:
:

Group Art Unit: 2152

Examiner: Not Yet Assigned

RECEIVED

OCT 12 2001

OFFICE OF PETITIONS

PETITION TO ACCEPT LATE SUBMISSION
OF REQUEST TO RESCIND A PREVIOUS NONPUBLICATION REQUEST
UNDER 35 U.S.C. § 122(b)(2)(B)(iii) and 37 C.F.R. § 1.182

Attention: Office of Petitions
Assistant Commissioner of Patents
BOX DAC
Washington, D.C. 20231

Sir:

Applicant respectfully petitions the Director of the U.S. Patent & Trademark Office (USPTO) to accept late submission of a Request to Rescind Previous Nonpublication Request under 35 U.S.C. § 122(b)(2)(B)(ii), (iii). This petition is grantable for the following reasons.

1. **Facts.** This application was filed on March 26, 2001, with a non-publication request under 35 U.S.C. § 122(b)(2)(B)(i). On June 13, 2001, the applicant's assignee foreign-filed this application by filing a corresponding PCT application and Taiwan application.

The applicant is represented in this application by the undersigned attorney and law firm. The law firm uses computer-based docketing system, Case Tracking System by Flextrac, to track all due dates and response dates in matters pending before the USPTO. The law firm updated the programming of this system in response to rule changes by the USPTO

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55218-0504

providing for 18 month publication of applications. On or about mid-June, 2001, members of the staff in the law firm office recorded a docket entry for the due date to file a Request to Rescind Previous Nonpublication Request in the docketing system. The law firm staff regularly printed due date reports from the docketing system, and the undersigned attorney for the applicant regularly reviewed the docket reports.

However, due to a rule programming error, the docketing system failed to print the due date for the Request to Rescind in any docketing report, for this application and all other applications handled by the law firm and subject to similar deadlines. As a result, the applicant unintentionally failed to file a Request to Rescind Previous Nonpublication Request within 45 days of the date of filing of the foreign applications, or by July 28, 2001 for this application.

In mid-September, 2001, an attorney in the law firm discovered and corrected the rule programming error described above. This Petition has been promptly filed thereafter. Thus, the entire delay in filing the required notice or request to rescind, from the due date for the same until the filing of this grantable petition, has been unintentional.

2. Applicable Law. An applicant may rescind a nonpublication request at any time, 35 U.S.C. § 122(b)(2)(B)(ii), and is required to notify the Director of any foreign filing not later than 45 days after the date of the filing of a foreign or international application. See 35 U.S.C. § 122(b)(2)(B)(iii). Filing a request to rescind a previous nonpublication request constitutes the notice required by statute under current USPTO practice. See Form PTO/SB-36 (11-00), "Note." While a failure to provide notice of foreign filing or rescind a nonpublication request within 45 days of a foreign filing of the same invention may cause constructive abandonment of an application, the USPTO is required by statute to accept such

notice late, and cannot hold an application abandoned, if the applicant shows to the satisfaction of the Director that the delay in submitting the notice was unintentional. See 35 U.S.C. § 122(b)(2)(B)(iii).

3. **Requested Relief.** A Request to Rescind Previous Nonpublication Request accompanies this petition. Applicant has shown, by the facts given above, that the delay in submitting such notice has been unintentional. Therefore, the applicant respectfully requests the USPTO to accept the enclosed Request at this time as is proper under the statute.

4. **Petition Fee.** This petition is made under 35 U.S.C. § 122(b)(2)(B)(iii), and not for unintentional abandonment under 37 C.F.R. §§ 1.213(c) or 1.137(b). Therefore, a petition fee of \$130.00 as specified in 37 CFR § 1.17(l) for petitions under 37 C.F.R. § 1.182, in the form of a law firm check, is submitted herewith.

The USPTO is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the consideration of this petition.

Respectfully Submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

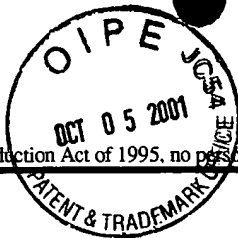


Christopher J. Palermo
Reg. No. 42,056

October 5, 2001

(408) 414-1080 ext. 202 CJP:ta
1600 Willow Street
San Jose, CA 95125-5106
Fax No. (408) 414-1076

(Certificate of Mailing by Express Mail follows)




Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**REQUEST TO RESCIND
PREVIOUS NONPUBLICATION
REQUEST
35 U.S.C. 122(b)(2)(B)(ii)**

Application Number	09/818,424
Filing Date	March 26, 2001
First Named Inventor	Ashar AZIZ
Title	SYMBOLIC DEFINITION OF A COMPUTER SYSTEM
Attorney Docket Number	55218-0504
Group Art Unit	2152
Examiner	

I hereby **rescind** the previous request that the above-identified application not be published under 35 U.S.C. 122(b).

Dated: October 5, 2001


Christopher J. Palermo
Reg. No. 42,056

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This request must be signed in compliance with 37 CFR 1.33(b).

OFFICE OF PETITIONS

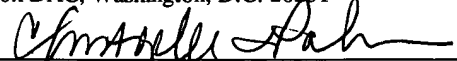
Note: Filing this rescission of a previous nonpublication request is considered the notice of a subsequent foreign or International filing required by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) if this rescission is filed no later than forty-five (45) days after the date of filing such foreign or international application. See 37 CFR 1.137(f) if a notice of subsequent foreign or International filing required by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is **not** filed within forty-five (45) days after the date of filing of the foreign or international application.

EXPRESS MAIL CERTIFICATE OF MAILING OR TRANSMISSION

"Express Mail" mailing label number EL566597375US

Date of Deposit: October 5, 2001

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Office of Petitions, Commissioner for Patents, Box DAC, Washington, D.C. 20231


Christopher J. Palermo

10-5-01
Date

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(b). The information is used by the public to rescind a previously filed request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that rescission). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

10-09-01

DTC/14

PTO/SB/17 (12/99)
 Approved for use through 09/30/2000. OMB 0651-0032
 Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision,
 Small Entity payments must be supported by a small entity statement,
 otherwise large entity fees must be paid. See Forms PTO/SB/09-12.
 See 37 C.F.R. §§ 1.27 AND 1.28

TOTAL AMOUNT OF PAYMENT (\$130.00)

Complete if Known

Application Number NYA
 Filing Date March 26, 2001
 First Named Inventor Ashar AZIZ
 Examiner Name NYA
 Group/Art Unit NYA
 Attorney Docket No. 55218-0504

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OFFICE OF PETITIONS

METHOD OF PAYMENT (check one)

1. ☒ Throughout the pendency of this application, please charge any additional fees, including any required extension of time fees, and credit all overpayments to deposit account 50-1302. A duplicate of this sheet is enclosed.

Deposit
Account
Number

50-1302

Deposit
Account
Name

Hickman Palermo Truong & Becker, LLP

2. ☒ Payment Enclosed:
☒ Check ☐ Money Order ☐ Other

3. ☒ Applicant(s) is entitled to small entity status.
 See 37 CFR 1.27

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
101	710	201	355	Utility (CIP) filing fee	
106	320	206	160	Design filing fee	
107	490	207	245	Plant filing fee	
108	710	208	355	Reissue filing fee	
114	150	214	75	Provisional filing fee	

SUBTOTAL (1) (\$0.00)

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from Below	Fee Paid
40	-20**= 20	X 9.00	= 180.00
4	-3**= 1	X 40.00	= 40.00
Multiple Dependent			

**or number previously paid, if greater; For Reissues, see below

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	80	202	40	Independent claims in excess of 3
104	270	204	135	Multiple dependent claim, if not paid
109	80	209	40	**Reissue independent claims over original patent
110	18	210	9	**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$0.00)

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	390	216	195	Extension for reply within second month	
117	890	217	445	Extension for reply within third month	
118	1,390	218	695	Extension for reply within fourth month	
128	1,890	228	945	Extension for reply within fifth month	
119	310	219	155	Notice of Appeal	
120	310	220	155	Filing a brief in support of an appeal	
121	270	221	135	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,210	241	605	Petition to revive - unintentional	
142	1,210	242	605	Utility issue fee (or reissue)	
143	430	243	215	Design issue fee	
144	580	244	290	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	130.00
123	50	123	50	Petitions related to provisional applications	
126	240	126	240	Submission of information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	690	246	345	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	690	249	345	For each additional invention to be examined (37 CFR § 1.129(b))	

Other fee (specify) _____

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$130.00)

SUBMITTED BY

Name (Print/Type)	Christopher J. Palermo	Registration No. (Attorney/Agent)	42,056	Telephone	(408) 414-1080
Signature	<i>Christopher J. Palermo</i>	Date	October 5, 2001		

WARNING:

Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

EXPRESS MAIL CERTIFICATE OF MAILING

"Express Mail" mailing label number EL566597375US Date of Deposit October 5, 2001

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Office of Petitions, Commissioner for Patents, Box DAC, Washington, D.C. 20231.

Christopher J. Palermo

(Typed or printed name of person mailing paper or fee)



(Signature of person mailing paper or fee)